

**STATE OF ARIZONA DEPARTMENT OF INSURANCE
MARKET OVERSIGHT DIVISION**

MARKET CONDUCT EXAMINATIONS OVERVIEW

The Market Oversight Division of the Arizona Department of Insurance consists of three sections: Analysis, Investigations and Examinations. Currently the Division consists of nine administrative and technical employees. Field examinations of insurers are performed primarily by independent-contractor examiners. Oversight of contractor examiners and overall examination oversight is provided by Department employee personnel.

Market Analysis and Targeting Methodology

Market conduct examinations are conducted on a targeted basis only, rather than a regularly scheduled basis. Insurers are identified as potential targets through monitoring and review of multiple resources and factors. The Market Oversight Analysis Section monitors periodicals, gathers information from other divisions of the Department, complaints, the Internet, advertising and marketing materials, NAIC, and any other resource at their disposal to identify insurers who may pose a threat to Arizona consumers. In keeping with the Market Conduct Examiners' Handbook, the Analysis Section reviews at least the following lists and sources to identify potential targets:

- Mergers / acquisitions
- Top 25 insurers
- Department generated listings (e.g., Long-Term Care, Non-Standard Auto)
- Market share changes
- RIRS, ETS, SAD reports/communications from other states
- Periodicals and other industry related publications
- Insurer or producer marketing and sales internet activity
- Solvency concerns
- Communications/referrals from other divisions
- Prior examinations
- Annual complaint ratios / indexes both state specific and nationally
- Reports generated by the Department or submitted to the Department by the industry
- Financial analysis (IRIS or RBC anomalies, TCASA profiles, comments from Financial Affairs analysts)
- Other divisions' commentary (interview key personnel in relevant divisions)

On an *annual* basis the Analysis Section identifies the following:

1. **L&D and P&C Complaint Ratios** - Complaint ratios are developed using a) the data obtained from our Annual Market Analysis Surveys of all active insurers in Arizona and b) the Department's complaint data. By dividing an insurer's consumer complaints by the number of policies in force and multiplying by 1,000, we arrive at the ratio of complaints, by insurer, per 1,000 Arizona policyholders.
2. **Report of Significant Premium Changes** - *Insurers that have experienced a significant change in premium that is greater than 50% increase or decrease in AZ premium over a three year period. This listing is generated by MOD.*
3. **New Insurers to Personal Lines, A&H and Variable Markets** (sources are Market Analysis Surveys, Property and Casualty Annual Liability Report, Financial Affairs Division licensing data). *Insurers that have recently been licensed or started selling insurance in these or other identified markets.*
4. **Prior Examinations** (source is Market Conduct Examinations Tracking Database and Resolution Documents): *Insurers that were examined more than 3 years ago for which there were significant examination findings as evidenced by the consent order or resolution documents.*
5. **Top 25 Lists** (source is DOI Annual Report or web site): *New insurers that have gained a significant share of the Arizona markets. These listings are developed by FAD.*
6. **Mergers and Acquisitions** (source Financial Affairs Division): *Insurers that have been acquired or merged in the last year.*

By reviewing these sources, the Analysis Section identifies insurers for more in-depth research. When the research and analysis reveal regulatory concerns, the analyst refers the matter to the Market Oversight Administrator. Upon completion of the Administrator's evaluation, all approved targets are transmitted to the Deputy Director for final approval. The number of targets approved by the Deputy Director during a one year time frame shall be limited by available resources and need. The examination must be called within a year of the Deputy Director's approval. If the Deputy Director requests additional information, the target is returned to Analysis Section for further research. Targets not approved are returned to the Analysis Section for further research or for termination.

Examination Commencement Activity

The Examinations Supervisor creates an examination work plan and corresponding budget. This work plan and budget may be revised as the examination progresses. The budget and work plan may be shared with the examinee.

To commence the examination, we send a “Call Letter” to the insurer’s president via facsimile and certified mail 60 days prior to the beginning of the on-site examination of the insurer. The call is also entered into the “Examination Tracking System” of the NAIC. In accordance with the Market Conduct Examiners’ Handbook, the Call Letter:

- Introduces the contract examiners, including the Examiner in Charge (“EIC”);
- Specifies the on-or-after arrival date;
- Specifies the time period of the examination;
- Explains our authority to conduct the examination;
- Identifies the lines of business to be reviewed;
- Requests the name of the examinee’s contact person;
- Describes billing procedures and fees;
- Seeks information regarding where billings should be sent;
- Identifies the preliminary information the examiners will require;
- Explains that the EIC will coordinate the on-site exam with the coordinator; and,
- Encourages communication between the insurer and the Department.

Upon receiving the call letter, the examinee should promptly provide the EIC with the name, phone number and e-mail address of the insurer’s contact person so the EIC may immediately begin coordinating the examination with the insurer.

Pre-examination, On-site and Post-examination Activities

In accordance with the Market Conduct Examiners’ Handbook, examination activities are performed in pre-examination, on-site, and post-examination phases.

Pre-Examination

The EIC arranges a pre-examination meeting or teleconference with insurer personnel to discuss the following:

- The examination process in general and a review of the Call Letter
- The insurer’s procedures, including records keeping, computer access, security, attire, etc.
- Location of records and appropriate contacts
- Data requests, including electronic data, run lists, manuals, etc.
- Logistics, including workspace, internet access, copy and fax equipment.

The EIC communicates with his/her team members to coordinate the on-site examination including, but not limited to, the start date of the examination and task delineation.

On-site Examination

The following are key points to every examination for which the EIC and/or other team members are responsible:

- Regular communication with insurer contacts and the Department

- Writing, issuing and monitoring responses to “Criticisms”
- Thoroughly documenting all communication with the insurer
- Complying with instructions regarding A.R.S. § 41-1009
- Submitting weekly examination status reports to the Department
- Monitoring the timely production of records and information
- Managing the efficiency of the overall examination

Post-Examination

In the post-examination phase, the EIC together with the examination team, in accordance with their contracts:

- Conduct a “wrap-up” or “exit” meeting with the insurer’s officials to review the examination findings and insurer’s actions. The Market Examinations Supervisor or his designee participates in this meeting.
- Write, submit and revise the Report of Examination in accordance with the Report Manual.
- Compile, organize and submit the examination “work papers” to the Department in accordance with the Report Manual.
- Respond to insurer objections to the Report of Examination.
- Meet as necessary with Department personnel to discuss any and all phases of the examination.
- Participate, as necessary, in any administrative proceedings that result from the examination.

The Market Examinations Supervisor reviews the Report for both compliance with the Report Manual and content. The Market Examinations Supervisor meets with the Market Oversight Administrator to discuss the Report and any proposed substantive amendments.

Distribution of Report, Insurer Objection and Examiner Response

After the original Report is finalized the “10-day Letter” is prepared (pursuant to A.R.S. §20-158). The Report is sent to the insurer for its review and filing of objections to the Report, if any. Reasonable extensions may be granted to the insurer to respond to the Report.

If the insurer has no objections to the Report, the examination proceeds to final print and the Examination Resolution process. In the event the insurer raises objections, a copy of the objection letter is sent to the EIC. The EIC is instructed to reply to the insurer’s objections within 30 days. The EIC prepares a reply letter to the Market Examinations Supervisor and, if necessary, amends the Report.

Once the examiners’ reply is reviewed and the Report given final approval by the Market Examinations Supervisor, the Report can proceed to final print and the Examination Resolution process.

Summary of Examination Resolution Mechanisms

After the appropriate resolution has been identified and the Report of Examination has been processed, the Market Examinations Supervisor initiates the resolution process. There are essentially four ways an examination might be resolved:

1. **File as-is.** If it is determined that no further administrative action is necessary, the Report is filed without further administrative action.
2. **Letter Agreement.** A Letter Agreement is typically used when a civil penalty is not being sought. The Report is filed when the terms of the Letter Agreement are met.
3. **Consent Order.** A Consent Order is commonly used in cases that include a civil penalty.
4. **Administrative Hearing.** If we are unable to resolve the examination through a Letter Agreement or Consent Order, or if the examination findings are particularly egregious, intentional or repetitive, the Department has the authority to initiate administrative proceedings.

Once the examination has been resolved and the Report has been filed, the Compliance Procedures begin.

Summary of Compliance Procedures

Upon receipt of the signed Consent Order from the Director, the Market Examinations Supervisor initiates the Compliance Process. Depending on the provisions of the Consent Order, the insurer may need to make changes to its operations and/or procedures; pay restitution and interest; conduct self audits; re-file forms; etc. Ultimately, the insurer must fulfill its obligation under the terms of the Order, which involves the following steps:

1. **Contact Person.** The Market Examinations Supervisor determines the appropriate individual with whom to coordinate compliance.
2. **Deadline Date.** As mandated by the Consent Order, the insurer must meet the requirements of the Order within a specified time frame.
3. **Introductory Letter.** A letter is sent to the contact person at the insurer. The letter introduces the Market Examinations Supervisor, states the deadline date, and also includes the Compliance Checklist and Post-Examination Survey.
4. **Compliance Checklist.** A checklist is enclosed with the introductory letter that lists the requirements of the Order, put into a simple checklist form, to assist the insurer in its effort to provide the Department with the documentation that will satisfy the terms of the Order.

5. **Post-Examination Survey.** Document provided to the insurer after the Consent Order has been signed by both parties which asks for an evaluation of the Examination team from the insurer's point of view.
6. **RIRS.** is the form provided by the NAIC to enter regulatory actions against an insurer on a nationwide database.

During the time frame when the insurer is working to comply with the requirements of the Order, the Market Examinations Supervisor may periodically check with the insurer to monitor progress.

By the deadline, the Market Examinations Supervisor should have possession of all materials required in the Order. At this point, the Market Examinations Supervisor will verify that the information is complete and sufficient. Items that may be addressed at this time include:

1. **Completeness of Corrective Action Plan.** Using the checklist and the Order as guides, the Market Examinations Supervisor will verify that the insurer has completed all the requirements in the Order.
2. **Payment of Restitution and/or Interest.** Documentation from the insurer, in the form prescribed by the Order, that restitution and/or interest have been paid.
3. **Use of Approved Form Letter to Accompany Restitution Payments.** Verification that a letter, in a form previously approved by the Director, accompanied every payment of restitution made under the terms of the Order.
4. **Deadline Extensions.** Extensions to comply may be granted if warranted. The Market Examinations Supervisor may authorize extensions to the respondent(s).
5. **Requests for Additional or Revised Documents.** If the insurer has submitted documentation that fails to adequately address all of the requirements of the Order, the Department may offer the insurer an opportunity to supplement the materials submitted in order to be compliant.
6. **Meeting with Market Oversight Administrator to Verify Compliance.** When the Market Examinations Supervisor believes that all of the requirements of the Order have been met, the Supervisor meets with the Market Oversight Administrator to verify that the insurer has satisfied all the requirements of the Order.

When the Market Oversight Administrator is satisfied that the examinee has complied with the Order or Letter Agreement, the Market Examinations Supervisor sends a final letter to the insurer's contact person. The letter states that the Department acknowledges the company appears to comply with the terms of the Order subject to future verification.